

CHAPTER 14

Payment of License Fees to Foreign Performing Rights Societies

14-100 Introduction

1. DoD Directive 5535.7 (reference (l)) requires payment of these fees subject to approval by the Judge Advocate General (JAG) of the Military Department designated for negotiating such an agreement.

2. The areas of responsibility for legal review of license agreements conform to geographic areas assigned to the Military Departments by DoD Directive 5515.8 (reference (m)), which provides single Service responsibility for the processing and adjudication of claims overseas. These differ from geographic areas of responsibility for the operation of AFRTS outlets overseas as designated in this Regulation. As a result, one Service may be assigned legal review of an agreement that has been negotiated by the contracting officer of a different Service.

14-101 Countries and Societies Requiring Payment

The following is a list of countries involved and the Foreign Licensing Societies to which payments are required:

<u>Country</u>	<u>Licensing Authority</u>
Belgium	Societe Beige des Auters, Compositeurs ed Editeurs (SABAM)
Canada	Composers, Authors, and Publishers Association of Canada, Rtd. (CAPAC)
Germany	Gesellschaft fur Musikalische Auffuhrungs und Mechanische Vervielfaitigungsrechte (GEMA)
Greenland	Selskabet Til Forvaltning AF International Komponistrettigheder i Danmark (KODA)
Iceland	Samband Tonskalda og Eigenda Flutningsrettar (STEF)
Italy	Societa Italiana degli Autori ed Editori (SIAE)
Netherlands	Het Bureau Voor Muziek Autersrecht (BUMA)
Norway	Norsk Komponistforenings Internasjonale Musikkbyra (TONO)

Portugal	Sociedad Portuguesa de Autores (SPA)
Spain	Sociedad General de Autores de Espana (SGAE)
United Kingdom (includes Diego Garcia)	Performing Right Society (PRS)

14-102 Designated Contracting Offices

The following contracting offices are designated to negotiate agreements for the countries named:

U.S. Contracting Agency, Europe, Frankfurt, Germany:	Belgium Germany
U.S. Naval Regional Contracting Office, U.S. Naval Forces Europe, London:	Iceland Italy Portugal
U.S. Naval Facility, Argentia, Newfoundland:	Canada
Hq U.S. Air Force Europe Contracting Office, Ramstein, Germany:	Denmark Netherlands Norway Spain United Kingdom

14-103 Inclusion and/or Exclusion of FAR Clauses

Seven of the agreements include a "Successors and Assignee Clause." Insofar as concerns waiver of clauses, the Office of the General Counsel, OSD, indicates statutorily required clauses that may not be waived include but are not limited to: "Examination of Records by Comptroller General," "Audit Negotiation," "Costs plus percentage of costs (10 U.S.C. 2306 (a))," "Provisions controlling allowable costs (10 U.S.C. 2324)," "Gratuities," "Officials not to Benefit," and. "Covenant Against Contingent Fees." Whether a deviation from the Federal Acquisition Regulations (FAR) should be granted to exclude other FAR clauses is a determination that should be made on a case-by-case basis after consideration of all relevant facts, and it should be made through established procurement channels at the behest of the contracting officer.

14-104 Agreement Requirements

Local contracting officers shall be required to negotiate for an irrevocable, nonexclusive, nontransferable, paid-up license to reproduce, **arrange**, translate, abridge, recast, deliver, dramatize, **perform**, or **use**, through **any** media, including but not limited to, radio, television, phonograph, **motion-**picture, and wired-sound systems; and in person, in public or private, in any

visual or audible manner, any and all of the literary, dramatic, musical, and artistic works in the Performing Rights Societies' repertories during the life of the agreement, which the United States Armed Forces are not otherwise licensed to use.

14-105 Coordination for Approval

Prior to execution by the local designated contracting officer, copies of the license agreement shall be forwarded to the Director, American Forces Information Service (AFIS), and to the Judge Advocate General (JAG) of the Military Department designated in accordance with the provisions of DoD Directive 5535.7 (reference (1)).

14-106 Payment of Fees

Effective Fiscal Year 1987, Performing Rights Fees are funded by AFIS (Germany excepted until FY '88). Fund citations shall be provided to the appropriate contracting offices annually on request. Following payment, copies of invoices shall be provided to the Director, AFIS.